

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 39

Limitations on Assessments of Residential and Commercial Property

SPONSOR(S): Farkas

TIED BILLS:

IDEN./SIM. BILLS: SJR 22

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee		Hogge	Hogge
2) Local Government Council			
3) Finance & Tax Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

This House Joint Resolution proposes to amend Article VII, section 4 of the State Constitution by extending the so-called "Save Our Homes" limitation on annual increases in the assessed value of homestead property to "all residential or commercial property." As a result, the annual assessed value of residential or commercial property, not just homestead property, could not be increased more than 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less.

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government were to adopt a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset the reductions in growth by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total taxable values.

However, in proposing this change, the joint resolution is drafted in a manner that may actually have the effect, apparently unintended, of increasing the assessed value of homestead property currently benefiting from the assessment cap by requiring a rebalancing of the assessed values of all residential and commercial property as of January 1 of the year following the effective date of this proposed constitutional amendment. Without a corresponding millage rate reduction, this rebalancing would have the effect of increasing the amount of ad valorem property taxes paid by those property owners whose homesteads are reassessed.

This proposal is expected to have a significant adverse fiscal impact on local governments.

See Section II.B.1. of this analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes—

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the “Save Our Homes” limitation from homestead¹ to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total assessed values.

However, though apparently not intended by the sponsor, this proposal could result in increased taxes. By amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the “effective date of this amendment,” this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued constitutionally provided assessment cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem property taxes paid by certain property owners.

B. EFFECT OF PROPOSED CHANGES:

Background

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03, the last year for which fiscal information is available, property taxes accounted for 31 percent of county governmental revenue (\$6.3 billion), and almost 20 percent of municipal government revenue (\$2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied \$8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.² Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property.

¹ That is, real property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner.

² “Just value” is the estimated market value of the property. “Assessed value” is generally synonymous with “just value” unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. “Taxable value” is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption.

In 1992, Florida voters approved the so-called “Save Our Homes” amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It does not limit assessment increases for other types of property such as non-homestead residential, commercial, or industrial property. This has produced valuation differentials for tax purposes among properties having similar market values. The “Save Our Homes” exception is one of several exceptions to the just value requirement found in Article VII, s. 4 of the State Constitution.³

Largely due to the recent surge in housing values⁴ and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in 2004.⁵ These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.⁶ Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.⁷ However, the differential between the actual millage rate and the so-called “roll back rate” (i.e., millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, then it was from 1990 to 1999.

The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the “Save Our Homes” provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by \$81 billion over the previous year compared to \$1.7 billion removed as a result of the homestead exemption.

Proposed Change

This House Joint Resolution would propose to amend Article VII, s. 4 of the State Constitution by extending the limitation on annual increases in the assessment of all homestead property to all residential or commercial property. As a result, changes in the assessed value of residential or commercial property, and not just homestead property, could not exceed 3 percent of the assessment for the prior year or the percentage change in the U. S. Consumer Price Index, whichever is less.

C. SECTION DIRECTORY:

Not applicable.

³ These include exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities may be authorized to assess historical property based solely on the basis of its character or use, without regard to just value. The Legislature also has provided for differential treatment of specific property, to include pollution control devices and building renovations for the physically handicapped.

⁴ The boom in housing values does not translate into an identical increase in “just values” or “assessed values” since not all property is taxed at “just value.” “Just values” have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in “taxable values” resulted in a similar experience.

⁵ “Taxes Levied and Millage Rates 1974-2004,” from 2006 Property Tax Roll Estimates prepared by the Revenue Estimating Conference, November 8, 2005. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to the tax increased by approximately 20%.

⁶ Id.

⁷ Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Ad valorem taxes are the primary revenue source for school districts. Because this bill applies the limits on assessed value to additional properties, it would also limit the amount of revenue generated from property taxes for school purposes, absent an adjustment in the millage rates. As such, the state might have to supply an increasing amount of support for the school system if the necessary funds could not be generated at the local level.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This proposal is expected to have a significant adverse fiscal impact on local governments, necessitating reductions in expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current property tax revenues. Although requested by staff, the Special Impact Session of the Revenue Estimating Conference has not yet rendered an official estimate of the fiscal impact. Unofficially, however, very preliminary staff estimates suggest a statewide reduction in property tax revenues of \$1.14 billion in 2006, followed by a \$2.33 billion and \$3.58 billion reduction in 2007 and 2008, respectively. For purposes of perspective, total property taxes levied statewide in 2004 were \$22.4 billion. These revenue reductions result from a projected reduction in the tax base of \$56.76 billion in 2006, growing to \$392.34 billion in 2011.

2. Expenditures:

This proposal would have no direct effect on expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total assessed values.

However, though apparently not intended by the sponsor, this proposal could result in increased taxes. By amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the "effective date of this amendment," this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued constitutionally provided assessment cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem taxes paid by certain property owners.

Since this proposal would bring commercial property under the limitation on assessed values, commercial property would for the first time enjoy the benefit of the assessment limitation.

D. FISCAL COMMENTS:

The fiscal impact statements do not take into account the apparently unintended rebalancing that could occur based on the way in which the proposal is drafted. See discussion at Section III.C. of this analysis.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Critics of the existing constitutional provision—the so-called “Save Our Homes” amendment—point to the disparities it can produce in assessed values between properties of equivalent market values. For example, for two homes with a market value of \$250,000, the assessed value of one may be \$100,000, and for another, \$175,000. This can result in one homeowner paying substantially more in property taxes as a percentage of their respective market values. Without a similar cap on other non-homestead properties, it can also result in other property owners having to pay disproportionately more in taxes due to taxable values closer to true market values.

This proposal could have consequences apparently not intended by the sponsor; that is, by amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the “effective date of this amendment,” this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued “Save Our Homes” cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem taxes paid by certain property owners.

In what appears to be a strictly technical drafting issue, the proposal uses the disjunctive “or” in referring to the type of property, i.e., residential “or” commercial, subject to the general just value assessment requirement. Given the context, the conjunctive “and” seems more appropriate since the provision is referencing the universe of property affected by the requirement.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES